

1 CHAIR JAMES: Any other business? If not,
2 what I'd like to do is to move to the tabled motions
3 from yesterday, go through them one at a time, and see
4 if we've been able to come up with language or if
5 there's any decisions that have been made for tabling.

6 Let's start with 3.3. We tabled that
7 yesterday saying that it would come up later and that
8 was handled. Are commissioners satisfied with --

9 COMMISSIONER WILHELM: Yes.

10 COMMISSIONER LANNI: Yes.

11 CHAIR JAMES: Okay, 3.6. Commissioner
12 Bible was going to work on that.

13 COMMISSIONER BIBLE: Yes, Madame Chair. I
14 did draft some language. The language would indicate
15 this:

16 "The Commission urges states with
17 lotteries to not allow instant games that are
18 simulations of live card and other casino type games.
19 Generally, the outcome of an instant game is
20 determined at the point of sale by the lottery
21 terminal that issues the ticket."

22 CHAIR JAMES: That's a lot.

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1 COMMISSIONER DOBSON: You don't have that
2 to pass out, do you?

3 COMMISSIONER BIBLE: I have it in
4 handwritten form, but you will probably not be able to
5 read it. But you can try.

6 CHAIR JAMES: Bill, would you read that
7 one more time?

8 COMMISSIONER BIBLE: Okay, the Commission
9 urges --

10 CHAIR JAMES: And please listen carefully.

11 COMMISSIONER BIBLE: "The Commission urges
12 states with lotteries to not allow instant games that
13 are simulations of live card and other casino type
14 games. Generally, the outcome of an instant game is
15 determined at the point of sale by the lottery
16 terminal that issues the ticket."

17 And I think what you're after is a call to
18 restrict those games that are instant games where the
19 determination is made at the point of sale instead of
20 a more classic lottery where you buy a ticket and,
21 downstream, there's a draw of the winning number.

22 COMMISSIONER LANNI: I would second that

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1 one, if that's a motion.

2 COMMISSIONER LOESCHER: Madame Chair.

3 CHAIR JAMES: Well, right now we have a
4 motion, we have a second and we're ready for
5 discussion.

6 Commissioner Loescher.

7 COMMISSIONER LOESCHER: Yeah, Madame
8 Chair, am I to understand then that what you're
9 talking about is pull tabs? You're saying that you
10 can't buy these things and get an instant win.

11 CHAIR JAMES: No.

12 COMMISSIONER LOESCHER: The language would
13 lead you to believe that that would be the case, would
14 you not?

15 COMMISSIONER BIBLE: Well, a pull tab, the
16 determination is made in the deck as the deck is
17 assembled. So if you have a thousand pull tabs, for
18 instance, and they insert one winning pull tab within
19 that deck and then they start selling that deck, that
20 winning ticket may be sold as number one or it may be
21 sold as number thousand.

22 So if it's sold as number one, the other

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1 999 people that buy the ticket have no chance of
2 winning. What we're talking about here is a game
3 where the outcome is determined by the computer
4 terminal itself and it replicates a casino card game--

5 COMMISSIONER LOESCHER: Okay.

6 COMMISSIONER BIBLE: -- or another type
7 casino game.

8 COMMISSIONER LOESCHER: Okay, Madame
9 Chair, if that's the understanding, that he's not
10 speaking about pull tabs, he would have my vote.

11 COMMISSIONER BIBLE: And pull tabs would
12 be -- at least in your environment, are Class II
13 gaming that are regulated by the Federal Government
14 and not by the states.

15 CHAIR JAMES: It has moved and seconded.
16 We've had discussion. Are you ready for the vote?

17 All in favor?

18 (Chorus of ayes.)

19 All opposed? Any abstentions?

20 COMMISSIONER DOBSON: I abstain. I just
21 don't understand the issue very well, so I'm --

22 COMMISSIONER BIBLE: Well, you probably

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1 need to understand the issue since it's your
2 recommendation.

3 CHAIR JAMES: Yes.

4 COMMISSIONER BIBLE: And I simply was
5 asked to draft your language.

6 CHAIR JAMES: It's a good thing.

7 COMMISSIONER BIBLE: So I would suggest
8 you hold it so Dr. Dobson can --

9 COMMISSIONER DOBSON: I abstain, I
10 abstain.

11 COMMISSIONER BIBLE: Well, -

12 CHAIR JAMES: Well, Jim, it's really
13 important for -- let's ask the questions and get the
14 understanding. I think it's important to spend the
15 time on it.

16 COMMISSIONER DOBSON: The electronic
17 mechanics of that, --

18 COMMISSIONER BIBLE: You want to prohibit
19 games that are simulations of card games and other
20 casino type games.

21 COMMISSIONER DOBSON: Right.

22 COMMISSIONER BIBLE: Okay, now the way

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1 they do that is they have the win decision made by the
2 device that issues the ticket.

3 COMMISSIONER DOBSON: Okay, all right.
4 All right.

5 COMMISSIONER BIBLE: I think you're okay
6 on this, I really do.

7 COMMISSIONER DOBSON: Aye.
8 (Laughter.)

9 COMMISSIONER BIBLE: I wouldn't lead you
10 down the path on this one.

11 COMMISSIONER DOBSON: Okay.

12 CHAIR JAMES: But on others, he may.
13 (Laughter.)

14 COMMISSIONER BIBLE: That was the
15 implication.

16 COMMISSIONER WILHELM: Madame Chair, can I
17 ask that we add to our research recommendations the
18 question of whether the commissioners behave
19 differently when there's no television?

20 (Laughter.)

21 COMMISSIONER BIBLE: Well, I noticed
22 everybody has their jackets on, which is -- you know,

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1 which I find to be amazing.

2 CHAIR JAMES: All right, 3.8 is the next
3 one that I see that we need to revisit. Did someone
4 take that one?

5 COMMISSIONER DOBSON: What number?

6 CHAIR JAMES: We just said we would
7 revisit 3.8. "The Commission recommends that because
8 states tend to become dependent on lottery revenues,
9 states should explore creative alternatives to the
10 lottery so that policy makers will have options to
11 consider when and if there is the desire to reduce or
12 eliminate the lottery."

13 COMMISSIONER LANNI: Could we have some
14 examples, I guess, of these creative alternatives,
15 raising the income tax or --

16 COMMISSIONER WILHELM: Yeah, my view is
17 this is beyond the ken of the Commission. I mean,
18 we're -- I think the thrust of our recommendations
19 about lotteries is perfectly obvious.

20 And if the states want to -- in view of
21 all of these issues that we're raising, if the states
22 think they should cut back on it, then I think they're

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1 capable of figuring out their own budgets.

2 COMMISSIONER LEONE: I agree with Bill. I
3 think this trivializes our criticism of lotteries.
4 Obviously if the state -- in fact, it reinforces the
5 myth that somehow the lottery -- it's so essential
6 that it requires some special act of imagination to
7 figure out an alternative.

8 You can cut programs or raise other taxes,
9 and states do that every year in one form or another.

10 And they do it if they want to reduce their alliance
11 on lotteries, and they should.

12 COMMISSIONER WILHELM: We have a somewhat
13 comparable recommendation that we adopted yesterday
14 with respect to Indian reservations, but to me that
15 one made sense because there are Indian reservations
16 where the stream of income from gambling is the lion's
17 share of the tribal income.

18 But that's not true in states. I think
19 our record shows it's something like 2% or less of the
20 average state budget, if my memory is right.

21 COMMISSIONER BIBLE: You're right. It's
22 less than 5%, I believe.

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1 COMMISSIONER LANNI: Madame Chair.

2 CHAIR JAMES: Commissioner Lanni.

3 COMMISSIONER LANNI: With due to time, if
4 there's no motion and no second, why are we discussing
5 this matter?

6 CHAIR JAMES: That's a good point.

7 3.9. The Commission tabled or passed this
8 one, asked to have the language worked on. You have
9 that in front of you now.

10 COMMISSIONER BIBLE: They just handed it
11 out.

12 CHAIR JAMES: It's in the yellow package,
13 first sheet.

14 Is someone willing to offer that as a
15 motion?

16 COMMISSIONER BIBLE: Well, having just
17 read this, what you've done is, in the first part,
18 you've restricted legal gambling to those that are
19 over 21 years of age. And then in pari-mutuel
20 facilities, you say that you want to restrict them
21 from loitering, which, by implication, would mean that
22 they can be in every other gambling area other than

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1 pari-mutuel.

2 And so I think what you want to do is you
3 want to craft it so that you cannot be -- if you're
4 under 21 years of age, you cannot be involved in a
5 gambling transaction. That's a prohibition on being
6 involved in the transaction itself.

7 Nor can you loiter in an area where
8 gambling activities take place.

9 COMMISSIONER WILHELM: In every facility,
10 not just --

11 COMMISSIONER BIBLE: In every facility, in
12 every facility.

13 COMMISSIONER WILHELM: I had the same
14 concern.

15 COMMISSIONER BIBLE: Well, you can put the
16 common law English language version of the term
17 loitering.

18 CHAIR JAMES: Hanging out.

19 COMMISSIONER BIBLE: Typically, in most
20 gaming environments, people under 21 can pass through
21 an area where gambling transactions occur. They
22 simply can't "hang out."

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1 COMMISSIONER WILHELM: Well, the Nevada
2 Gaming Control Board, at least under Bill's direction,
3 and I think continuing, has been very aggressive.
4 It's fined operators large amounts of money on this
5 point, on the point of loitering near machines, for
6 example.

7 Even while -- they fined the Las Vegas
8 Hilton a half a million dollars because the people
9 standing in line for the Star Trek attraction with
10 their kids happened to be somewhat near some slot
11 machines.

12 CHAIR JAMES: So it reads at this point,
13 "The Commission recommends that all legal gambling
14 should be restricted to those who are at least 21
15 years of age and that" -- what follows? "Nor can" --

16 COMMISSIONER BIBLE: And that those that
17 are under 21 years of age --

18 CHAIR JAMES: Be barred?

19 COMMISSIONER BIBLE: No, I don't think
20 it's a bar because there are cases where they have to
21 go through them.

22 COMMISSIONER LANNI: Those under 21 years

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1 of age will not be allowed to loiter in areas where
2 gambling occurs.

3 COMMISSIONER BIBLE: Occurs, yeah. And I
4 loiters is an understood term. Tough enforcement
5 term.

6 CHAIR JAMES: Is there a second for that?

7 COMMISSIONER DOBSON: I second.

8 CHAIR JAMES: Ready for the question?

9 All in favor?

10 COMMISSIONER LANNI: I think we should
11 leave the word transactions because that's more
12 applicable also to pari-mutuel than just gambling.
13 It's more wagering. So if we left that word in, I
14 think it would be clearer. Gambling transactions are
15 both for casinos and for pari-mutuel.

16 CHAIR JAMES: Where gambling transactions

17 --

18 COMMISSIONER LANNI: Occur.

19 CHAIR JAMES: -- occur.

20 3.9, all in favor?

21 (Chorus of ayes.)

22 Any opposed? Any abstentions?

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1 That brings us to --

2 COMMISSIONER DOBSON: 3.10.

3 CHAIR JAMES: -- 3.10.

4 Dr. Dobson, you were working on the
5 language on that one?

6 COMMISSIONER DOBSON: 3.10 is an effort to
7 combine that item with that one in 3.50, which deals
8 with a similar issue. And this is the language we're
9 recommending:

10 "The Commission recommends that states
11 should refuse to allow the introduction of casino
12 style gambling into pari-mutuel facilities for the
13 purpose of 'saving' a racetrack that the market has
14 determined no longer serves the community, or for the
15 purposes of competing with other forms of gambling."

16 CHAIR JAMES: I was just asking if that
17 language was printed anywhere. Would you read it one
18 more time, Jim, for us?

19 COMMISSIONER DOBSON: Okay, you didn't
20 have a chance --

21 CHAIR JAMES: That's fine.

22 COMMISSIONER DOBSON: Yeah, okay.

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1 "The Commission recommends that states
2 should refuse to allow the introduction of casino
3 style gambling into pari-mutuel facilities for the
4 purpose of 'saving' a racetrack that the market has
5 determined no longer serves the community, or for the
6 purposes of competing with other forms of gambling."

7 COMMISSIONER WILHELM: A small point and
8 then a larger point. The small point is that you may
9 not want to make reference to racetracks. There are
10 other kinds of pari-mutuel facilities that are not
11 racetracks.

12 As an example, the State of Rhode Island's
13 added slot machines, or their equivalent, to Jai Alai
14 Frontons, which are also pari-mutuel facilities. So
15 you may want to use the term pari-mutuel facility or
16 something like that instead of racetrack.

17 But on a larger point, I would like to
18 suggest that we refine that in either one of two ways.

19 Either, as 3.50's original draft did, insert in both
20 of those clauses either the word only or the word
21 solely, or, that is, that they shouldn't do this only
22 for the purpose of saving a pari-mutuel facility that

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1 the market has determined is not viable anymore.

2 That would be one approach. Or add a
3 sentence that says something like the Commission
4 recognizes that a state may determine to do this as
5 part of its overall gambling policy.

6 I don't want to create the impression that
7 we're suggesting that racetracks should not be made
8 into casino style facilities if it's for some other
9 reason than solely the reason of saving it. I support
10 the concept that we shouldn't -- that we should
11 recommend against turning casinos -- or turning pari-
12 mutuel facilities into casino style facilities just
13 for the purpose of saving them.

14 I support that. But I don't want to imply
15 that a state may not take that step as a part of its
16 overall gambling policy.

17 Just as one example, a lot of people in
18 California think that some of the expansion of
19 gambling, whether it's through tribal gaming or some
20 other way that is currently underway in California,
21 ought to take place at places that already have
22 gambling, namely pari-mutuel facilities.

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1 So if a state's going to expand gambling
2 anyway and decides that that's the place to do it on
3 the grounds that gambling has always been at
4 facilities like that, I think that's a perfectly valid
5 public policy decision.

6 I don't dispute the basic premise here, or
7 at least what I believe to be the basic premise, that
8 casino style gambling should not be added to pari-
9 mutuel facilities just to save that facility.

10 CHAIR JAMES: Jim, would you object to
11 solely being in the --

12 COMMISSIONER DOBSON: How about the word
13 primarily?

14 COMMISSIONER WILHELM: Fine.

15 CHAIR JAMES: Primary?

16 COMMISSIONER DOBSON: For the purpose
17 primarily of saving a racetrack?

18 COMMISSIONER WILHELM: That's fine.

19 COMMISSIONER DOBSON: Yeah, well, I've got
20 pari-mutuel in the three words prior to that. I don't
21 want to repeat it.

22 Yeah, go ahead.

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1 COMMISSIONER WILHELM: Because you may
2 have a Jai Alai Fronton --

3 COMMISSIONER DOBSON: Yeah, I understand.

4 COMMISSIONER WILHELM: -- and you may want
5 to do the same thing. So --

6 COMMISSIONER DOBSON: What's a synonym
7 then?

8 COMMISSIONER WILHELM: How about just
9 saving the facility?

10 COMMISSIONER DOBSON: Okay, we've just
11 said pari-mutuel facilities. Let me say it again.
12 "The Commission recommends that states should refuse
13 to allow the introduction of casino style gambling
14 into pari-mutuel facilities for the purpose of
15 'saving' a facility."

16 CHAIR JAMES: Or saving those -- for the
17 sole purpose of --

18 COMMISSIONER LANNI: For the sole purpose.

19 CHAIR JAMES: For the primary purpose of
20 saving those facilities.

21 COMMISSIONER DOBSON: Primary.

22 COMMISSIONER BIBLE: Yeah, I personally

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1 have difficulties with that particular recommendation
2 because I can think of circumstances where states have
3 legalized slot machines.

4 For instance, Louisiana, which created
5 slot routes throughout the state and legalized certain
6 forms of river boat gambling and the racetracks, came
7 in and made that very pitch, that they needed to have
8 the same gambling availabilities in order to compete
9 effectively.

10 And I think I would have some sympathy to
11 that particular argument.

12 CHAIR JAMES: Commissioner Lanni.

13 COMMISSIONER LANNI: I think that same
14 argument is in California because it is apparent that
15 Governor Davis will enter into compacts with the
16 Native American tribes that will afford them, I think
17 it's fair to say, the legitimate opportunity to
18 operate slot machines.

19 There will be a hue and cry from the other
20 legal forums in California, being the card clubs and
21 the racetracks, that, in order to stay in business,
22 they will have no choice but to have that form of

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1 gambling.

2 And I think that would be a terrible
3 restraint on their ability to exist through no
4 causative factor of their own. It's a separate
5 agreement that the governor will reach with the Native
6 Americans, which I have no problem with, but I think
7 it would be -- I can't support this particular program
8 either because I think it would put the racetracks,
9 the pari-mutuel facilities and the card clubs at a
10 distinct disadvantage.

11 COMMISSIONER LEONE: I think we should
12 perhaps accept the fact that we have a legitimate
13 difference of view here. I support the proposal
14 because -- precisely because of the arguments that
15 Bill and Terry just used to oppose it.

16 And that is, I think that one of the --
17 part of the slippery slope in gambling is I'm at a
18 competitive disadvantage, therefore I need X. Now I'm
19 at a -- well, he got X, I'm at a competitive
20 disadvantage, I need X and Y.

21 Yeah, that is real, and that's what we
22 call chasing in my parlance. But in this case, I

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1 think the Commission ought to oppose it. And I think
2 it goes beyond -- obviously I think it goes beyond
3 pari-mutuel facilities to communities and states
4 competing.

5 But on this one, I think this is fairly
6 carefully drawn now and applies only to -- and gives
7 good guidance to policy makers. Whether they take it
8 or not, we'll have to see.

9 CHAIR JAMES: At this point, it has not
10 been formally offered as a motion.

11 COMMISSIONER DOBSON: I make that motion,
12 yes.

13 COMMISSIONER LOESCHER: Second.

14 CHAIR JAMES: It has been moved and
15 seconded. All in favor? Are you ready for the --

16 COMMISSIONER LANNI: I'll move the
17 question.

18 CHAIR JAMES: You'll move the question?

19 All in favor?

20 (Chorus of ayes.)

21 All opposed?

22 (Chorus of no's.)

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1 COMMISSIONER LEONE: Abstain.

2 CHAIR JAMES: And one abstention. And I
3 think the motion carries.

4 COMMISSIONER DOBSON: I have 3.11 also.

5 CHAIR JAMES: All right, 3.11.

6 COMMISSIONER DOBSON: "The Commission
7 received testimony that convenience gambling such as
8 video poker terminals in neighborhood stores provide
9 fewer economic benefits and creates potentially
10 greater social cost by making gambling more available
11 and accessible.

12 "Therefore, the Commission recommends that
13 states with convenience gambling should adopt a
14 moratorium on the further spread of convenience
15 gambling."

16 COMMISSIONER LANNI: Could we read it one
17 more time, please?

18 COMMISSIONER DOBSON: "The Commission
19 received testimony that convenience gambling such as
20 video poker terminals in neighborhood stores provide
21 fewer economic benefits and creates potentially
22 greater social cost by making gambling more available

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1 and accessible.

2 "Therefore, the Commission recommends that
3 states with convenience gambling should adopt a
4 moratorium on the further spread of convenience
5 gambling."

6 COMMISSIONER LANNI: Friendly amendment.
7 I think the word "stores" should be replaced with
8 "outlets" --

9 COMMISSIONER DOBSON: Okay.

10 COMMISSIONER LANNI: -- because you have
11 potential truck stops that may not be arguably a
12 store.

13 COMMISSIONER DOBSON: Right.

14 COMMISSIONER WILHELM: I would suggest two
15 other amendments that I believe are also friendly.
16 One, even though it's only an example, I think that it
17 might be more clear as to what we intend -- rather
18 than limiting the example to video poker, to say
19 electronic gambling devices because, you know, in 7-
20 11's in Las Vegas, for example, there are slot
21 machines usually, which is a minor point.

22 But I would also think, Jim, in addition

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1 to saying -- if I heard you right, in addition to
2 saying states that already have convenience gambling
3 shouldn't expand it, shouldn't we also recommend that
4 states that don't have it shouldn't introduce it?

5 COMMISSIONER DOBSON: Sure agree with
6 that.

7 COMMISSIONER WILHELM: I thought you
8 might.

9 (Laughter.)

10 CHAIR JAMES: Jim, could you read that as
11 it exists now?

12 COMMISSIONER DOBSON: I haven't finished
13 it, but "the Commission received testimony that
14 convenience gambling such as electronic devices in
15 neighborhood outlets provides fewer economic benefits
16 and creates potentially greater social cost by making
17 gambling more available and accessible.

18 "Therefore, the Commission recommends that
19 states with convenience gambling should adopt a
20 moratorium on the further spread of convenience
21 gambling and those states which" -- what?

22 COMMISSIONER WILHELM: Which presently do

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1 not have convenience gambling should not introduce it.

2 COMMISSIONER DOBSON: Okay.

3 COMMISSIONER LANNI: I would second that
4 motion.

5 COMMISSIONER LOESCHER: Madame Chair.

6 CHAIR JAMES: Commissioner Loescher.

7 COMMISSIONER LOESCHER: You know, if
8 anyplace, where I personally object to this business
9 of spread of gambling is in this convenience store in
10 our neighborhoods where our families and our children
11 go, and the word moratorium, we defined that a hundred
12 different ways last time, but it means a pause.

13 It doesn't mean cease, roll back or not
14 introduce. It's not clear why we have that word in
15 there. I'd rather take a harder position and advise
16 public policy makers that they should cease and roll
17 back and not start this business of convenience of
18 gambling in our neighborhoods.

19 So, I have a hard time with that word
20 moratorium.

21 COMMISSIONER WILHELM: I think
22 Commissioner Loescher makes a good point, and I would

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1 support his point.

2 COMMISSIONER DOBSON: Give us language.
3 You'll get support on that, too.

4 COMMISSIONER LOESCHER: Cease, stop, roll
5 back.

6 CHAIR JAMES: Can I ask staff if they
7 could -- we'll table that one for a minute. If you
8 can draft that and, as soon as it's done, bring it up
9 to the table and I'll bring it back up again.

10 Then we're up to 3.12.

11 COMMISSIONER LANNI: This is a
12 collaborative effort. John wrote it and I'm reading
13 it.

14 (Laughter.)

15 "The Commission recommends to the state
16 and tribal governments, the NCAA and other youth
17 school and collegiate athletic organizations that
18 because sports gambling is popular among adolescents
19 and may act as a gateway to other forms of gambling,
20 such organizations and governments should fund
21 educational and prevention programs to help the public
22 recognize the fact that almost all sports gambling is

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1 illegal and can have serious consequences.

2 "The Commission recommends that this
3 effort should include public service announcements,
4 especially during tournament and bowl game coverage.
5 The Commission recommends that the NCAA and other
6 amateur sports governing bodies adopt regulatory codes
7 of" -- excuse me -- "mandatory codes of conduct
8 regarding sports gambling, education and prevention.

9 "The Commission also calls upon the NCAA
10 to organize America's research universities to apply
11 their resources to develop scientific research on
12 adolescent gambling, sports gambling and related
13 research."

14 I added one word, John. I added "to
15 develop" scientific. That's the only thing I added.

16 COMMISSIONER WILHELM: Anything you like.

17 CHAIR JAMES: Would you like to offer that
18 as a motion?

19 COMMISSIONER LANNI: I'd offer the motion.

20 COMMISSIONER MOORE: I second that.

21 CHAIR JAMES: It's been moved and
22 seconded. Any discussion?

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1 COMMISSIONER DOBSON: Question.

2 CHAIR JAMES: Call the question.

3 All in favor?

4 (Chorus of ayes.)

5 Any opposed? The motion carries.

6 Okay, that brings us now to 3.15. If I
7 skip any, please let me know. And 3.15 was -- that's
8 in the package. Turn to your yellow.

9 COMMISSIONER DOBSON: 3.15. Okay, "The
10 Commission recommends that each state adopt and then
11 follow enforceable advertising guidelines that avoids
12 explicit or implicit appeals to vulnerable
13 populations, including youth in low income
14 neighborhoods."

15 And then this is added: "To affect
16 enforcement, we recommend that Congress amend the
17 Truth in Advertising laws to include Native American
18 gambling in state sponsored lotteries."

19 CHAIR JAMES: Could you read that last --

20 COMMISSIONER DOBSON: Essentially it's
21 only the last section. "To affect enforcement, we
22 recommend that Congress amend the Truth in Advertising

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1 laws to include Native American gambling in state
2 sponsored lotteries."

3 COMMISSIONER BIBLE: Since we have George
4 here, how about states adopting advertising guidelines
5 and restrictions?

6 MR. TERWILLIGER: I think it's
7 problematic. I mean, the language, as it reads now
8 in the first part -- I don't know what an enforceable
9 -- I'm not sure what an enforceable guideline is.
10 Guidelines seem to be something different than
11 regulations or standards perhaps.

12 But restrictions on commercial speech
13 enacted by states are problematic. In addition to
14 that, for what it's worth, since you asked me, Bill, I
15 think that the standard that is in the draft here that
16 avoids explicit or implicit appeals to vulnerable
17 populations -- we're not writing laws obviously, we're
18 writing suggestions for types of laws.

19 But that type of standard would, frankly,
20 be a lawyer's dream in terms of litigating what those
21 terms mean.

22 So I think it might be helpful to just

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1 make clear that, consistent with both state and
2 federal constitutional principles and with language
3 that accomplishes the purpose, the Commission
4 recommends.

5 Because I'd hate to see you be criticized
6 for what the Commission may consider a good idea that
7 has some great legal vulnerabilities.

8 COMMISSIONER WILHELM: Madame Chair, we
9 seem to have switched tracks here. This started out,
10 I think correctly, as an effort to get gambling
11 operations to voluntarily adopt, and then to follow,
12 advertising guidelines.

13 And the suggestion in the original form
14 was that within those voluntary codes of advertising
15 conduct which originally was thought to be aimed at
16 state lotteries adopting such things and tribal
17 governments adopting such things and casinos and etc.,
18 within them, the idea was there should be some kind of
19 enforcement mechanism.

20 Now, this new version, if I'm reading it
21 right, appears to suggest, although it's not overly
22 clear, that somehow the state is going to adopt these

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1 things and everybody else is going to be forced to
2 abide by them.

3 Well, that doesn't have a prayer of
4 surviving, legally speaking. I think we ought to go
5 back to the concept that was contained in the original
6 3.15. And I thought that all we were going to do was
7 tinker with the definition of the types of gambling
8 operations that were included.

9 So I don't know how we got over to this.

10 COMMISSIONER BIBLE: And yesterday, when
11 we talked about this issue, I, at least, expressed
12 some concern about voluntary guidelines being
13 enforceable. I think I was persuaded, after listening
14 to the discussion, that it can indeed be enforceable,
15 and I think we ought to address this recommendation to
16 industry trade associations such as the AGA.

17 In Nevada it would be the NRA. There's a
18 similar group in --

19 COMMISSIONER WILHELM: NIGA.

20 COMMISSIONER BIBLE: -- the NIGA in tribal
21 gaming and directors of lotteries to develop
22 advertising guidelines and appropriate enforcement

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1 mechanisms and implement them.

2 COMMISSIONER WILHELM: I believe the
3 states can only enforce something like this as against
4 themselves, not anybody else. So the present form of
5 this thing doesn't make any sense to me.

6 CHAIR JAMES: Would you all like to work
7 on that a little bit more? Who had that one?

8 COMMISSIONER DOBSON: It's ours. Well,
9 it's Leo's originally.

10 CHAIR JAMES: Leo?

11 COMMISSIONER McCARTHY: Madame Chair, this
12 language here was mine and an important phrase was
13 omitted from it. What I was attempting to apply this
14 language to was state lottery sales.

15 COMMISSIONER WILHELM: Well, it would make
16 sense for that.

17 COMMISSIONER BIBLE: And I think the
18 second part of your recommendation is right on point
19 where you want to have the truth in advertising
20 restrictions applied to both tribal and lottery
21 advertising, which has an exemption because of their
22 governmental nature.

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1 COMMISSIONER WILHELM: Is that
2 recommendation based on the assumption that the Truth
3 in Advertising laws already apply to commercial
4 gambling?

5 COMMISSIONER BIBLE: That would be the
6 case. Now, we asked a panel of advertisers to do a
7 legal brief for us as to whether or not you could make
8 those laws applicable to a governmentally operated
9 lottery, and I don't know as if we ever heard a reply.

10 Dr. Kelly, do you know?

11 CHAIR JAMES: Commissioner Dobson.

12 COMMISSIONER DOBSON: Madame Chair, would
13 the Commission give us an opportunity to take one more
14 run at this and come back?

15 CHAIR JAMES: Certainly. We'll pass on
16 that and go to 3.28.

17 COMMISSIONER BIBLE: You skipped over --

18 CHAIR JAMES: 3.28 should be in the
19 package.

20 COMMISSIONER BIBLE: Madame Chair, you
21 skipped over 3.24.

22 CHAIR JAMES: 3.24.

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1 CHAIR JAMES: That one was deleted. That
2 was done.

3 COMMISSIONER WILHELM: It died.

4 COMMISSIONER LEONE: I think we couldn't
5 figure out a formulation.

6 COMMISSIONER BIBLE: Actually, I'm not so
7 sure that one did die because I was asked -- was that
8 on your list, 3.24?

9 COMMISSIONER WILHELM: That's what I
10 thought.

11 CHAIR JAMES: I'm sorry, I'm looking at
12 3.34.

13 COMMISSIONER LANNI: 3.24 was adopted with
14 various changes.

15 CHAIR JAMES: Yeah, 3.24 was with one
16 year.

17 COMMISSIONER BIBLE: But you wanted some
18 language.

19 COMMISSIONER WILHELM: Yeah, there was
20 supposed to be some language tinkering, wasn't there?

21 COMMISSIONER BIBLE: That's what I'm
22 talking about.

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1 CHAIR JAMES: Did you do that?

2 COMMISSIONER BIBLE: That's what I'm
3 talking about.

4 CHAIR JAMES: Good.

5 COMMISSIONER BIBLE: Now we're on point.

6 CHAIR JAMES: Now we're there.

7 COMMISSIONER BIBLE: Okay, 3.24 would read
8 --

9 COMMISSIONER LEONE: I wonder why Bill
10 took the time to focus on that?

11 (Laughter.)

12 COMMISSIONER BIBLE: Call me strict at
13 competition. I want a ten year cooling off period for
14 everyone out there now.

15 COMMISSIONER LEONE: I think there's a ten
16 year rule about being on gambling committees.

17 COMMISSIONER WILHELM: I was hoping it was
18 lifetime.

19 COMMISSIONER BIBLE: How about something
20 of this nature:

21 "The Commission recommends that federal,
22 state and tribal gambling regulators should be subject

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1 to a cooling off period that prevents them from
2 working for any gambling operation subject to their
3 jurisdiction for a period of one year.

4 "Federal, state or tribal lottery
5 employees" -- and I realize there are probably not any
6 federal or state lottery employees at this point -- or
7 tribal, excuse me -- "lottery employees should be
8 subject to a cooling off period that prevents them
9 from working for any supplier of lottery services for
10 a period of one year."

11 So you couldn't have migration from the
12 lottery industry to the people that run their lottery.

13 COMMISSIONER LOESCHER: I second the
14 motion.

15 CHAIR JAMES: Jim, does that take care of
16 your concerns?

17 COMMISSIONER DOBSON: It's still one year,
18 which bothers me, but I will support it.

19 COMMISSIONER LANNI: Could you read the
20 second part again?

21 COMMISSIONER BIBLE: Federal, state and
22 tribal lottery employees. Now, at this point, we only

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1 have state lotteries.

2 COMMISSIONER LANNI: I understand.

3 COMMISSIONER BIBLE: Should be subject to
4 a cooling off period that prevents them from working
5 for any supplier of lottery services for a period of
6 one year.

7 COMMISSIONER LANNI: Okay, well, in the
8 first instance, I think you limited it to people --

9 COMMISSIONER BIBLE: Under the
10 jurisdiction.

11 COMMISSIONER LANNI: -- under their
12 jurisdiction. And the second one you don't have a
13 limitation.

14 COMMISSIONER BIBLE: Yeah, and I did that
15 deliberately because there's only two or three
16 suppliers out there and because the competitive nature
17 of the contracting situation.

18 COMMISSIONER LANNI: I'll move the
19 question.

20 COMMISSIONER LOESCHER: Second.

21 CHAIR JAMES: All in favor?

22 (Chorus of ayes.)

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1 Any opposed?

2 Bill, can you make sure that that language
3 makes it over here?

4 COMMISSIONER DOBSON: Bill, is this a
5 departure from what's typically happening now?

6 COMMISSIONER BIBLE: That's currently the
7 case certainly in Nevada, certainly in New Jersey and
8 Illinois and a number of other jurisdictions. In the
9 lottery area, that would probably be a departure.

10 CHAIR JAMES: Okay, yes, 3.28, moving on.

11 COMMISSIONER LEONE: There are a couple of
12 comments in this that I didn't put in it that should
13 come out, but I'll read it.

14 "The Commission recommends that
15 jurisdictions considering the introduction of new
16 forms of gambling or the significant expansion of
17 existing gambling operations should sponsor
18 comprehensive gambling impact statements.

19 "Such analyses should be conducted by
20 qualified, independent research organizations that
21 should encompass, insofar as possible, the economic,
22 social and regional effects of the proposed action."

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1 COMMISSIONER WILHELM: So moved.

2 COMMISSIONER DOBSON: Second.

3 COMMISSIONER BIBLE: What does significant
4 expansion mean?

5 COMMISSIONER LEONE: Well, I think that's
6 intended to -- that language was intended to be
7 practical since, in Nevada, a significant expansion
8 would be very different from what it would be in
9 Alaska, Hawaii or Utah.

10 COMMISSIONER BIBLE: Well, let's use Dr.
11 Moore's state, Mississippi.

12 COMMISSIONER LEONE: So I didn't think
13 that we could quantify it. I didn't think we could
14 quantify it. I thought it would be something that
15 people on the ground could make a judgement about.

16 COMMISSIONER BIBLE: That being on the
17 record, I don't have a problem with the
18 recommendation.

19 COMMISSIONER LANNI: Second.

20 CHAIR JAMES: It has been seconded.

21 COMMISSIONER LANNI: I'll call the
22 question.

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1 CHAIR JAMES: Madame Chairman, before you
2 do this, --

3 CHAIR JAMES: Commissioner Loeschler.

4 COMMISSIONER LOESCHER: You know, I work
5 in the private sector, and I have endured
6 environmental impact statements that are endless,
7 endless in their trying to do them, multimillions of
8 dollars going into them. One in the Tongas National
9 Forest, we've been at it over ten years.

10 And this is a lawyer's paradise that we're
11 creating here. I just see that as a -- you know, some
12 people might say you need have an outlook as to what
13 the impacts are going to be. You should be able to
14 define them.

15 But this becomes a hold up. It becomes
16 delayed. It becomes -- you know, it takes a good idea
17 and just turns it into nothingness in time. And so I
18 struggle, you know, with the notion that this is a
19 good idea.

20 It's undefined, and that's the worst part
21 of it, is you use these great words like
22 comprehensive, you know, study, and who knows what

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1 form that's going to take in time.

2 Anyway, I just struggle with this and I
3 just think you're introducing something that's not
4 going to be helpful in time.

5 COMMISSIONER BIBLE: I think, to a large
6 extent, this is done currently where gambling is being
7 proposed to introduce very hotly contested issues and
8 the -- both the proponents and the opponents gather
9 analyses and statistical data and impact type
10 statements to present and justify their particular
11 position.

12 So, to a large extent, this is done where
13 communities are considering legalization. And if
14 Richard is correct that the new forms of gambling or
15 the significant expansion of existing gambling is
16 interpreted by the people that are on the ground,
17 they'll make the determination as to whether or not
18 you need to have these comprehensive type statements.

19 CHAIR JAMES: Commissioner Wilhelm.

20 COMMISSIONER WILHELM: With all due
21 respect to Bob's point, my guess would be that -- I
22 don't want to put words in anyone's mouth, but my

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1 guess would be that part of the purpose of those who
2 drafted or support this proposal is precisely to do
3 what Bob said.

4 That is to say, to slow down the process.

5 And I don't think that's bad. I think, as a
6 practical matter, what's happened is that very large
7 casino developments are already, and I think properly,
8 subjected to versions of this.

9 But many of the forms of gambling
10 expansion that we've experienced in this country,
11 particularly the smaller, and I think we've agreed as
12 a Commission, potentially more pernicious forms, are
13 not subjected to this kind of examination.

14 So, I would very much support this. I
15 think this kind of call for a requirement that the
16 expansion of gambling or the introduction of gambling
17 be deliberate and studied and make sure there's a
18 procedure that gives opportunity for battle I think is
19 an excellent idea.

20 And I know that we'll cinch the votes here
21 by -- if I repeat what Lieutenant Governor McCarthy
22 just told me, which is that he says that the first

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1 major state law that required the introduction of
2 these environmental impact statements that you're
3 expressing unhappiness about, Bob, was signed into law
4 by Governor Ronald Reagan.

5 COMMISSIONER LEONE: On the other hand,
6 Alaska could come to look quite like New Jersey, and I
7 can't say I think that's a bad thing.

8 COMMISSIONER WILHELM: That's a low blow.

9 COMMISSIONER LEONE: Well, I'd just like
10 to say two things. One is -- and I've spent a lot of
11 time in the private sector and I still do on occasion,
12 and our concern -- my concern in that role is making
13 money and earning money for the shareholders.

14 We're not immoral people when we do that,
15 but we consider things in terms of whether or not they
16 will turn a profit. It is appropriate for society as
17 a whole to ask us -- to force us, compel us, on
18 occasion, to consider other things because that's a
19 very narrow view of the pluses and minuses.

20 The second thing with regard to language,
21 and this is true in many places in the report, it is
22 inevitable that language will be argued about. You

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1 know, Madison and Hamilton and Jay and Jefferson were
2 maddeningly unspecific by modern terms, but we
3 struggle with reinterpreting that language.

4 And I think we -- this is meant to be
5 language that would evolve over time. And if there's
6 anything there's a consensus about on this Commission,
7 it is that the impact of gambling is more complex than
8 it often seems in the arguments between the two
9 extreme sides.

10 And in that context, I think this is a
11 pretty straightforward recommendation and not a
12 dangerous one.

13 CHAIR JAMES: I would just say it strikes
14 me that, Bill, what you said is absolutely true; and
15 that is, with any expansion of gambling, there
16 generally is a hue and cry from both sides to bring
17 their information to the table.

18 And that certainly has been the case
19 nationally, which is why this Commission was formed,
20 hopefully to provide some research analysis data. And
21 so what strikes me as important about this particular
22 recommendation is the phrase in there "by qualified,

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1 independent research organizations."

2 And if we could encourage that kind of
3 research to be done at the local level and that kind
4 of information gathered, if there's a Commission ten
5 years from now, they'll probably have a whole lot more
6 data to base their findings upon.

7 With that, Commissioner Dobson, --

8 COMMISSIONER DOBSON: Call for the
9 question.

10 CHAIR JAMES: Oh, okay. We're looking at
11 3.28.

12 All in favor?

13 (Chorus of ayes.)

14 All opposed?

15 COMMISSIONER LOESCHER: Nay.

16 CHAIR JAMES: Any abstentions?

17 COMMISSIONER DOBSON: Madame Chair.

18 CHAIR JAMES: The ayes have it.

19 Yes?

20 COMMISSIONER DOBSON: I have the two
21 pulled over issues when you're ready to return to
22 them.

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1 CHAIR JAMES: Okay, we're ready to go to -
2 -

3 COMMISSIONER DOBSON: Go back to 3.11.

4 CHAIR JAMES: Oh, to 3.11?

5 COMMISSIONER DOBSON: Yeah.

6 CHAIR JAMES: Okay, let's go back to 3.11.

7 So we're back --

8 COMMISSIONER DOBSON: Okay, 3.11. I'll
9 read the portion that I think we agreed on and then
10 the new portion.

11 "The Commission received testimony that
12 convenience gambling such as electronic gambling
13 devices in neighborhood outlets provides fewer
14 economic benefits and creates potentially greater
15 social cost by making gambling more available and
16 accessible.

17 "Therefore, the Commission recommends that
18 states" -- here's the new phrase -- "should not
19 authorize any further convenience gambling operations
20 and should cease and roll back existing operations."

21 COMMISSIONER WILHELM: So moved.

22 COMMISSIONER LOESCHER: Second.

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1 CHAIR JAMES: Wow, it has been moved and
2 seconded. Are you ready for the question?

3 All in favor?

4 (Chorus of ayes.)

5 All opposed?

6 COMMISSIONER BIBLE: I'm going to vote no
7 on this. I don't think it needs -- this
8 recommendation is overly strong to the states.

9 CHAIR JAMES: Any abstentions?

10 COMMISSIONER LANNI: I'll abstain.

11 CHAIR JAMES: Mr. Lanni abstains.

12 COMMISSIONER DOBSON: Okay, I have number
13 3.15.

14 CHAIR JAMES: Okay.

15 COMMISSIONER DOBSON: 3.15 now states,
16 "The Commission recommends that each gambling
17 operation, state lottery, tribal government and
18 associations of gambling organizations adopt, and then
19 follow, enforceable advertising guidelines that avoid
20 explicit or implicit appeals to vulnerable
21 populations, including youth and low income
22 neighborhoods.

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1 "Enforcement should include a mechanism
2 for recognizing and addressing any citizen complaints
3 that might arise regarding advertisements. To effect
4 enforcement, we recommend that Congress amend the
5 Federal Truth in Advertising laws to include Native
6 American gambling and state sponsored lotteries."

7 CHAIR JAMES: Commissioner Bible.

8 COMMISSIONER BIBLE: I think the only
9 change I would make is in that preamble to the last
10 sentence to --

11 COMMISSIONER DOBSON: To effect
12 enforcement?

13 COMMISSIONER BIBLE: I think you're
14 talking about two different concepts. And if that is
15 done, that, in effect, lets -- I think that's an
16 additional recommendation that you're making. You
17 have the voluntary guidelines and enforcement
18 mechanisms for those voluntary guidelines.

19 Then, in addition, you want to add the
20 amendments to the Truth in Advertising law and apply
21 those to lotteries and tribal gaming.

22 COMMISSIONER WILHELM: So just delete the

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1 words "to effect enforcement."

2 COMMISSIONER LANNI: Yes, yes.

3 COMMISSIONER DOBSON: Okay, just eliminate
4 three words then. And it reads, "we recommend that
5 Congress amend the Federal Truth in Lending."

6 COMMISSIONER BIBLE: Or additionally
7 maybe. Additionally, comma, we recommend.

8 COMMISSIONER WILHELM: I'd like to make
9 one other suggestion which I think would make it a
10 little broader, Jim, which is to put a period after
11 enforceable advertising guidelines, and then say,
12 "among other things, these guidelines should seek to
13 avoid explicit or implicit appeals," etc.

14 Because the guidelines presumably will
15 address issues beyond youth and low income
16 neighborhoods. It will probably address other kinds
17 of issues as well, I would think.

18 COMMISSIONER DOBSON: Okay. Staff's got
19 that?

20 COMMISSIONER LOESCHER: Madame Chair.

21 CHAIR JAMES: Commissioner Loescher.

22 COMMISSIONER LOESCHER: Just for the

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1 record, I have a problem with that last sentence, you
2 know, asking Congress to amend the Truth in
3 Advertising laws. I don't know what Congress is going
4 to do. We haven't given much guidance as to what the
5 content of that might be.

6 The other thing is that if you're applying
7 this to states and tribal governments, I think there
8 is difficulty there, you know, dealing with that
9 subject. Lastly, the Native American tribes have done
10 an excellent job in their advertising across America.

11 And I haven't seen any evidence of their
12 abusing the public or any groups in their advertising,
13 and I think they've advanced quality product on the
14 public airwaves and wherever their displays are.

15 So anyway, I have great trouble with the
16 notion of encouraging Congress to amend the Truth in
17 Advertising laws, and I think it's not a good idea.

18 COMMISSIONER DOBSON: Madame Chairman,
19 this is a motion.

20 CHAIR JAMES: Is there a second?

21 COMMISSIONER McCARTHY: Second.

22 CHAIR JAMES: It has been moved and

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1 seconded. We are in the discussion phase.

2 COMMISSIONER LOESCHER: Madame Chair, I'd
3 like to move to amend to delete the last sentence of
4 the motion.

5 CHAIR JAMES: Is there a second? That
6 motion dies. Then we go back to the original motion.

7 Are you ready for the question?

8 COMMISSIONER BIBLE: And during the
9 discussion period, I think the record should be clear
10 that we had requested information as to whether or not
11 Congress could restrict the speech of another
12 governmental entity such as a state or a tribal
13 entity.

14 We have not received that, so we may be on
15 a slippery slope. But if it can be done, I think it
16 should be done.

17 CHAIR JAMES: And if we want to, we can
18 have the opportunity to review that when we get back
19 together just to do any final tweaking.

20 Okay, we need to vote on the
21 recommendation.

22 All in favor?

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1 (Chorus of ayes.)

2 Any opposed? Any abstentions?

3 COMMISSIONER LOESCHER: Madame Chair, I'd
4 like for the record to show that I abstain on this
5 proposal.

6 CHAIR JAMES: The record will indicate
7 that.

8 Okay, that takes us up to --

9 COMMISSIONER DOBSON: 3.29, I believe.

10 CHAIR JAMES: And I think that one is
11 yours, Dr. Dobson?

12 COMMISSIONER DOBSON: It is. Okay, this
13 is the rewrite of 3.29.

14 "The Commission recommends that gambling
15 'cruises to nowhere' should be prohibited unless the
16 state from which the cruise originates adopts
17 legislation specifically legalizing such cruises
18 consistent with existing law."

19 COMMISSIONER WILHELM: What does that last
20 phrase mean?

21 COMMISSIONER DOBSON: Consistent with
22 existing law? I suppose the law of that particular

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1 state.

2 COMMISSIONER WILHELM: I agree with the
3 concept, but I don't know what that phrase means.

4 CHAIR JAMES: That if that state, I
5 suppose -- I don't know.

6 COMMISSIONER LANNI: It was the legal
7 question, I think.

8 CHAIR JAMES: What was the legal question?

9 COMMISSIONER DOBSON: The question --
10 Steve reminds me. Yesterday was -- I think you made
11 the point or somebody did --

12 COMMISSIONER WILHELM: I asked.

13 COMMISSIONER DOBSON: -- about the ships
14 that were out to sea.

15 COMMISSIONER WILHELM: Yeah, three mile
16 limit.

17 COMMISSIONER DOBSON: Yeah, the three mile
18 limit.

19 COMMISSIONER WILHELM: What's the answer?

20 COMMISSIONER DOBSON: And it has to do
21 with where they're docked, does it not?

22 MR. TERWILLIGER: I don't think so. I

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1 mean, I'm not sure the state can regulate what the
2 ships do outside the three mile limit.

3 COMMISSIONER BIBLE: No, but I suspect
4 what a state can do is it can regulate the possession
5 of gaming devices and instrumentalities within its
6 borders. And so if you dock at Los Angeles and you've
7 got a shipload of gaming devices, I can imagine
8 there's some kind of jurisdiction.

9 COMMISSIONER LANNI: Well, the other
10 thing, historically, if you go back to the '40s, they
11 had illegal gambling ships off the coast of
12 California, but they didn't allow those ships to come
13 into port because the state and the county had control
14 over that.

15 What they did is they used other, smaller
16 vessels to take the people out.

17 COMMISSIONER BIBLE: To carry the people
18 out.

19 COMMISSIONER LANNI: Then what the city
20 and the county did is they wouldn't grant licenses to
21 those people to bring them out. Then they all went to
22 Las Vegas.

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1 COMMISSIONER BIBLE: And here we are
2 today.

3 (Laughter.)

4 CHAIR JAMES: Here we are.

5 COMMISSIONER LANNI: Just a little
6 history.

7 COMMISSIONER BIBLE: Well, that's only a
8 part of our heritage.

9 CHAIR JAMES: Commissioner Dobson.

10 (Laughter.)

11 COMMISSIONER DOBSON: May I ask permission
12 for Steve Reed, who is an attorney, to explain --

13 CHAIR JAMES: Oh, sure, of course.

14 COMMISSIONER DOBSON: -- the position
15 here?

16 MR. REED: Commissioners, the purpose of
17 the language was simply to say --

18 COMMISSIONER WILHELM: You need to use a
19 microphone or else your pearls will be lost for the
20 record.

21 MR. REED: I thought I was yelling.

22 The purpose of the language was simply to

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1 say that the recommendation should be to adopt rules
2 that are consistent with existing law. Not to adopt
3 something that's going to violate what is already the
4 law, but to craft something that will work within the
5 restrictions under maritime law and whatever other
6 regulations may grant the right of a ship to conduct
7 gambling outside territorial limits.

8 COMMISSIONER LOESCHER: Madame Chairman.

9 CHAIR JAMES: Commissioner Loescher.

10 COMMISSIONER LOESCHER: I happen to come
11 from a state that has many thousands of miles of
12 coastline and one of the biggest states in the Union
13 to have such. We believe that this business of
14 controlling the ocean is a matter of federal law and
15 not necessarily that of state law.

16 Within the three mile limit, the state
17 governments and also our borough governments in our
18 area have jurisdiction over domestic affairs. And we
19 have experienced in the last number of years that, for
20 instance, the Alaska delegation has enabled cruise
21 ships which come to Alaska.

22 Many hundreds of them, and it's a major

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1 enterprise for our state, have casino style business
2 on their ships. But when they enter jurisdictions
3 which do not support gambling, they are prevented from
4 operating their machines and their areas for gambling,
5 and that's right.

6 And so I really have trouble with this
7 notion, you know, that we can recommend to govern the
8 open seas, and I'm opposed to that.

9 CHAIR JAMES: Commissioner Lanni.

10 COMMISSIONER LANNI: Bob, one thing that
11 may give you a little more comfort, the comment
12 "cruises to nowhere" would not affect any of the
13 cruise lines that go into Alaska because they're not
14 cruises to nowhere.

15 I think the reference to "cruises to
16 nowhere" are ships that are purely gambling ships that
17 are sent out from Miami and other areas -- Gloucester
18 I think also. So it wouldn't affect -- this
19 recommendation, even if it were adopted by the several
20 states, it wouldn't affect any of these cruise lines.

21 COMMISSIONER LOESCHER: Madame Chair, I
22 accept the idea that the gentleman from Nevada

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1 recognizes the State of Alaska is somewhere, so I --
2 (laughter) -- will recede from my position.

3 Thank you.

4 (Laughter.)

5 CHAIR JAMES: Commissioner Moore.

6 COMMISSIONER MOORE: It appears that all
7 of us are against the cruises to nowhere. Why don't
8 we just say the Commission recommends that gambling
9 cruises to nowhere should be prohibited from any state
10 border? If we just recommend it. I mean, we
11 recommend it, so the states can do what they want to.

12 And we don't believe that they should
13 exist anyway.

14 COMMISSIONER BIBLE: Well, I think there
15 are cases where a state, if they wanted to authorize a
16 cruise to nowhere, should be able to do it, the same
17 as they can authorize river boat gambling in your
18 particular state.

19 The thing that bothers me about cruises to
20 nowhere as they're currently constituted is a public
21 policy reason. It's totally unregulated. The people
22 that are operating them have never been investigated.

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1 There are no internal controls in the games.

2 Nobody knows -- it's like Internet gaming.

3 Now, if a state chose to regulate it and license the
4 activity and said you can go cruise around and come
5 back, I don't see why they shouldn't be able to do
6 that.

7 I mean, you have cruises to nowhere in
8 every one of your gaming facilities.

9 COMMISSIONER MOORE: No, we have them tied
10 down.

11 (Laughter.)

12 COMMISSIONER BIBLE: That's what I just
13 said. They go nowhere.

14 COMMISSIONER MOORE: We did have cruises
15 to nowhere before the --

16 CHAIR JAMES: You locked them down.

17 COMMISSIONER BIBLE: And now you have
18 river boat gambling that doesn't ever sail.

19 COMMISSIONER MOORE: Well, it comes down
20 to the cotton patches.

21 (Laughter.)

22 But anyway, I mean, we know that states

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1 can do whatever they want to, but we can recommend
2 that they don't do it.

3 CHAIR JAMES: Well, Bill, it seems to me
4 that we ought to say what we need to say. And I think
5 you said it probably best just now, that our concern
6 is -- this Commission's concern is that the cruises to
7 nowhere are largely, if not entirely, unregulated and
8 no -- very little monitoring.

9 And as a result of that, it is very
10 troublesome to us and we would suggest to states that
11 --

12 COMMISSIONER BIBLE: That would be the
13 public policy reason. But if a state chose -- for
14 instance, Mississippi chose to take one of those boats
15 that sit out in front of the Gulf, would they be able
16 to even do so and take it out three miles and bring it
17 back.

18 They should be able to do that.

19 COMMISSIONER DOBSON: What this item is
20 obviously getting at is that this is occurring against
21 the will of the state.

22 COMMISSIONER WILHELM: Exactly.

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1 COMMISSIONER BIBLE: Exactly.

2 COMMISSIONER DOBSON: It's a motion.

3 COMMISSIONER BIBLE: Why don't you read --

4 COMMISSIONER MCCARTHY: Call for the
5 question.

6 CHAIR JAMES: Would you read the motion as
7 it exists right now?

8 COMMISSIONER DOBSON: "The Commission
9 recommends that gambling 'cruises to nowhere' should
10 be prohibited unless the state from which the cruise
11 originates adopts legislation specifically legalizing
12 such cruises consistent with existing law."

13 COMMISSIONER BIBLE: Yes, that's fine.

14 COMMISSIONER MCCARTHY: Call for the
15 question.

16 CHAIR JAMES: All in favor?

17 (Chorus of ayes.)

18 Any opposed? Any abstentions?

19 Okay, who has the next one? I think
20 that's 3.47.

21 COMMISSIONER LEONE: These are in the
22 wrong order, if they're numbered properly. 3.44 was

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1 the compact question. And actually I think the
2 compact's a good idea and such compacts, by their very
3 nature, are voluntary between states, but have to be
4 sanctioned by congressional action.

5 This recommendation reads, "The commission
6 recommends that where significant gambling activities
7 such as casinos are located within 50 miles of a
8 state's border, the adjoining states agree to a
9 gambling compact.

10 "Requiring congressional approval, such
11 compacts would be designed to address the issue of
12 competition between states for gambling revenues."

13 It's left general because obviously the
14 individual states and particular situations might
15 include very different items in the compact.

16 CHAIR JAMES: Are you offering that as a
17 motion?

18 COMMISSIONER LEONE: I am.

19 CHAIR JAMES: Is there a second?

20 COMMISSIONER MCCARTHY: There is a second.

21 CHAIR JAMES: There is a second. Any
22 discussion?

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1 COMMISSIONER WILHELM: Madame Chair.

2 CHAIR JAMES: Commissioner Wilhelm.

3 COMMISSIONER WILHELM: I very much
4 supported the recommendation about gambling impact
5 statements because I think that's an appropriate and
6 workable stumbling block and an appropriate stumbling
7 block in the path of gambling development.

8 I oppose this one because I think that
9 it's not workable. The expert on state government to
10 my immediate left on the podium told me yesterday that
11 it is rare indeed for interstate compacts, in fact, to
12 be concluded and ratified, and that there are only a
13 few examples extant.

14 I recognize that Richard has explained
15 that this is voluntary, but I think that it's a cause
16 for inappropriate mischief and I would sharply
17 contrast it with the impact statements that I and the
18 Commission just supported.

19 I think that the reality is that states
20 would attempt to use this process as a way of getting
21 the upper hand as against each other. I can just
22 imagine this kind of negotiation, for example, between

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1 Mississippi and Alabama.

2 And if it is the case that these things
3 are rarely adopted in any walk of life, then I think
4 that there's no substance of reality to this
5 particular proposal and, for that reason, I would
6 oppose it.

7 COMMISSIONER LEONE: Well, let me defend
8 --

9 COMMISSIONER BIBLE: And I would agree
10 with your comment.

11 COMMISSIONER LEONE: Let me defend it, to
12 this extent, and I -- obviously the Port Authority of
13 New York and New Jersey exists by compact. And as a
14 former chairman, I have some experience with how these
15 compacts work in practice and, inevitably, a lot more
16 knowledge of the history than probably I ever intended
17 to have.

18 While the issues were very different, the
19 original compact was designed to deal with competition
20 over the river crossings, the local of ports. Later
21 on it became the mechanism for dealing with
22 competition about where the airports would be and who

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1 would -- and for dealing with the bargaining that was
2 going on between airlines to try and play one state
3 off against another.

4 I think there are many transjurisdictional
5 items in the gambling area which could be reasonably
6 addressed by compact. I don't think it's a
7 threatening notion. It is a big task to get a compact
8 passed. It requires two state legislatures, two
9 governors, the United States Congress.

10 And it seems unlikely to me that out of
11 the process would emerge an entity that wasn't
12 considered a good idea by the people involved. So I
13 guess I don't see this as an earth shaking
14 recommendation either way.

15 CHAIR JAMES: Commissioner Lanni.

16 COMMISSIONER LANNI: I think if you take a
17 look at the Port Authority agreements in New York and
18 New Jersey, there's a substantial difference. Because
19 there it was an issue of which ports would people use.

20 Would they use the ones in New Jersey or
21 would they use the ones in New York? If you're
22 looking at a compact, let's just say that -- look at

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1 Lake Tahoe where there are casinos in California and
2 the other side where there aren't casinos.

3 There's not the option for a person to go
4 to a casino in California or a casino in Nevada. The
5 issue is California may want to block Nevada from
6 doing something because it's close enough to the
7 border.

8 I think it's absolutely impractical. As a
9 great believer in states' rights, I think it's an
10 infringement upon states' rights. And I don't think
11 that the analogy -- albeit as effectively as Richard
12 ran that organization, I don't think the analogy is
13 correct or really comports with what we're talking
14 about here.

15 COMMISSIONER BIBLE: And I think you just
16 pointed out the example where typically you have
17 compacts where there's bistate waterways and they're
18 for management purposes.

19 The Tahoe Basin, which has a set of
20 environmental controls by compact, does restrict
21 gaming growth within the basin by virtue of a side
22 agreement that Nevada entered into, and I think it's

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1 been a fairly effective mechanism.

2 But I think what you propose here is just
3 simply unworkable.

4 COMMISSIONER MCCARTHY: Madame Chair.

5 CHAIR JAMES: Commissioner Moore.

6 COMMISSIONER MOORE: I'm going to have to
7 be against my friend's recommendation because, after
8 this Commission has talked about --

9 COMMISSIONER DOBSON: I'm sorry, Paul, I
10 can't hear you.

11 COMMISSIONER MOORE: After this Commission
12 has talked about our sister state, Louisiana, so much,
13 we certainly wouldn't want to share anything with
14 them.

15 (Laughter.)

16 COMMISSIONER BIBLE: Well, they'd let you
17 do what you want. There would just be a price.

18 (Laughter.)

19 COMMISSIONER LOESCHER: Madame Chair.

20 CHAIR JAMES: Commissioner Loescher.

21 COMMISSIONER LOESCHER: Madame Chair, I
22 have worked real hard not to be cynical, you know, as

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1 I have been with you all this last couple of years,
2 but this plague is something that the Indians don't
3 want to pass on to you folks.

4 (Laughter.)

5 CHAIR JAMES: This compacting thing?

6 COMMISSIONER LOESCHER: This compacting
7 thing is a difficult matter. And we believe in
8 states' rights and sovereignty, and I'm going to vote
9 against this.

10 COMMISSIONER LANNI: I call the question.

11 CHAIR JAMES: The question has been
12 called.

13 All in favor?

14 (Chorus of ayes.)

15 All opposed?

16 (Chorus of no's.)

17 Any abstentions?

18 COMMISSIONER McCARTHY: That was close.

19 CHAIR JAMES: The Chair abstains.

20 COMMISSIONER BIBLE: Do we need a roll
21 call?

22 CHAIR JAMES: Do you need a roll call on

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1 that?

2 COMMISSIONER BIBLE: Yeah.

3 CHAIR JAMES: No, I don't think so.

4 Okay, number 3.47.

5 COMMISSIONER LEONE: I had this one, too.

6 This is about another -- a more --

7 COMMISSIONER BIBLE: Boy, you got all the
8 tough assignments.

9 COMMISSIONER LEONE: -- even touchier
10 subject, campaign fundraising. I actually hosted a
11 lunch last week for my good friend, Jim Leach, and I
12 said to the audience, by way of introduction, that
13 this was an extremely rare event because of the two
14 things that were happening at once: the lunch was
15 free and there was a member of the United States
16 Congress present speaking.

17 I view this recommendation in the context
18 of the campaign fundraising activity.

19 COMMISSIONER BIBLE: I'm sorry, I didn't
20 hear you.

21 COMMISSIONER LEONE: "The Commission
22 recognizes that there is an inherent conflict between

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1 the independence that we demand of governmental
2 regulators -- government regulators and the
3 fundraising that we permit by political candidates.

4 "While this dilemma exists with regard to
5 many regulated industries, our charge is to examine
6 only one: legalized gambling. The Commissioner
7 therefore recommends that states prohibit political
8 campaign contributions by gambling license holders."

9 COMMISSIONER BIBLE: Can I ask you a few
10 questions? Let's talk about gaming license holders.
11 Now, do you mean the corporate entity? No corporate
12 case?

13 COMMISSIONER LEONE: Well, I think it
14 should probably read individuals and --

15 COMMISSIONER BIBLE: And entities. So if
16 you don't hold a license, you, in effect, can
17 contribute to the process.

18 COMMISSIONER LEONE: Well, individuals are
19 licensed, a lot of them, aren't they, in the business?

20 COMMISSIONER BIBLE: Well, in some cases
21 they are, and a lot of cases they are not. New Jersey
22 has a different level of licensure than, say, Nevada,

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1 than Mississippi, than any other state. I'm just
2 trying to figure out where all the --

3 COMMISSIONER LEONE: Well, I welcome
4 language that would --

5 COMMISSIONER BIBLE: No, I'm not
6 suggesting language because I don't think you can do
7 it. I'm just trying to develop all the loopholes in
8 your proposal.

9 This thing is so big, you could shoot a
10 cannon through it.

11 COMMISSIONER LEONE: Well, do you think
12 there should be any restrictions?

13 COMMISSIONER BIBLE: No, I do not. I do
14 not believe you should disenfranchise that sector of
15 our economy, and I don't believe you could craft
16 language that would do it any more than you could
17 restrict the auto makers in Michigan or the oil
18 drillers in Texas or any other state that has these
19 kind of industries.

20 CHAIR JAMES: Commissioner Lanni.

21 COMMISSIONER BIBLE: I'm done.

22 COMMISSIONER LANNI: Richard, in reading

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1 this -- I'm trying to understand this. If you read
2 it, it sounds as though the fundraising would be
3 fundraising on behalf of the government regulators
4 because I think what you're talking about is
5 fundraising for political candidates.

6 COMMISSIONER LEONE: Right.

7 COMMISSIONER LANNI: Because I think it's
8 a little --

9 COMMISSIONER LEONE: Well, it said
10 political campaign contributions.

11 COMMISSIONER LANNI: No, I know. But I
12 mean, when you talk about the Commission recognizes
13 there's an inherent conflict between the independence
14 that we demand of governmental -- government
15 regulators and the fundraising that we permit by --
16 shouldn't it be permit for political candidates?

17 COMMISSIONER LEONE: Well, I think they do
18 their own fundraising.

19 COMMISSIONER LANNI: Well, they do, but I
20 read this as -- what I read here though is that
21 there's a tie in between the regulators and
22 fundraisers.

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1 COMMISSIONER LEONE: Oh, I think there's a
2 tie in between political office holders and
3 regulators. They're normally appointed by people
4 elected to office.

5 COMMISSIONER LANNI: And a second question
6 though I have, is this related to city, county and
7 state?

8 COMMISSIONER LEONE: I'd be happy to
9 include that. That's a good, constructive suggestion.
10 And federal, I'd add, too.

11 COMMISSIONER LANNI: And I happen to
12 support this. Well, if you have federal, I will not
13 support it.

14 COMMISSIONER LEONE: Okay.

15 COMMISSIONER LANNI: But if it's city,
16 county and state --

17 COMMISSIONER LEONE: City, county and
18 state is what I had .

19 COMMISSIONER LANNI: -- officials, and I
20 guess county is appropriate. I guess they're all
21 counties. Oh, they've got boroughs I think in Alaska.

22 COMMISSIONER LEONE: Let me just say

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1 something in response to Bill. I know that we sat
2 down different rules for different kinds of activities
3 in different groups. And I think -- I would argue
4 that anybody in the gambling industry should be
5 Caesar's wife on these kinds of issues.

6 I think it's good for the industry's
7 reputation to bend over backwards to appear not to be
8 -- would be good not to be buying their way into the
9 business or into licenses. I don't expect people to
10 behave that way by and large, but some do.

11 And frankly, in New Jersey, while it is
12 true that many people like lawyers and bankers and
13 others who have strong relationships with casino
14 industry have -- are big contributors and attempt to
15 influence political candidates and office holders in
16 ways that are favorable to the industry, I think it
17 has generally been atonic that the industry itself and
18 its employees cannot contribute to state campaigns.

19 And I don't think it's been harmed because
20 of that.

21 COMMISSIONER BIBLE: But at least from my
22 perspective, I would globally support forms of

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1 campaign finance reform that would restrict other
2 areas of activity and provide some fairly severe
3 limitations on campaign contributions.

4 I don't think it's reasonable or fair to
5 take one industry and restrict them from access to the
6 political process where other industries and
7 individuals would have access through political
8 contributions.

9 Globally, if it applies to everybody, I
10 think I'd be on board. And, of course, that's not
11 within the scope of this Commission.

12 COMMISSIONER LANNI: Comment.

13 CHAIR JAMES: Commissioner Lanni.

14 COMMISSIONER LANNI: The language as
15 written I cannot support. However, philosophically, I
16 do support the restrictions. So if we were to adopt
17 the New Jersey language, and I don't have it here,
18 that would be acceptable.

19 I am bothered when we say this Commission
20 recognizes an inherent conflict between the
21 independence that we demand of governmental
22 regulators. I don't look at the fact that we have an

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1 inherent conflict automatically.

2 But I think that for purposes of
3 cosmetics, if nothing else, there should be this
4 limitation. So you may not need my vote, but you
5 would have it if you would propose the New Jersey
6 limitation.

7 COMMISSIONER BIBLE: Well, I would be
8 happy to work -- to delay this and work with Terry on
9 language.

10 CHAIR JAMES: Why don't we table that one
11 and move on.

12 My suggestion is going to be that if we
13 can limit it to only one or two carry over items for
14 our next meeting, that that would be -- and this one,
15 I think, is sufficiently important that we look at it
16 and figure out a way that we can perhaps do that.

17 So that one has been tabled.

18 Let me exert a little bit of discipline
19 here and go back and remember that what we need to do
20 is to read the motion, see if there is a support for
21 it, and then we will move to the discussion.

22 Because what we've been doing is

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1 discussing them before the motion has been made. So
2 we are now up to 3.50. Did I skip any?

3 COMMISSIONER DOBSON: Yeah, that's 3.10
4 and 3.50.

5 CHAIR JAMES: Okay. I skipped 3.49.

6 That has your name by it, Tim. Is that
7 something you were working on? Incorporate into --

8 COMMISSIONER BIBLE: We handled that.

9 CHAIR JAMES: 4.1, 4.2 we moved over to
10 research. 4.15 is the next one I have.

11 COMMISSIONER BIBLE: And I was asked to
12 take a look at this one. This one would have created
13 a monitoring type situation for states' efforts to
14 implement what would be called the McCarthy-Lanni plan
15 for treatment of problem and pathological gamblers.

16 I talked with Leo this morning and it
17 would seem appropriate to me that that be moved into
18 research so that we have some entity within the
19 Federal Government to examine states' implementation
20 of those programs and make a report to the Congress as
21 to how they're doing.

22 COMMISSIONER LANNI: I think, for the

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1 record, that's the McCarthy plan. I was only part of
2 the truth squad.

3 (Laughter.)

4 COMMISSIONER BIBLE: That's a full time
5 job.

6 COMMISSIONER McCARTHY: I'm going to let
7 that abuse roll off my back.

8 COMMISSIONER WILHELM: Gracious in
9 victory, Leo.

10 CHAIR JAMES: Okay, well then we'll move
11 that one over there. That takes us from 4.15 to 4.19.

12 COMMISSIONER McCARTHY: Madame Chair,
13 under number one, this is what we were asked to do:
14 Under number one, at the end of that, I added a
15 sentence and, unfortunately, omitted a phrase. The
16 sentence I'm referring to is, "An estimate of
17 prevalence in each form of gambling should also be
18 included."

19 What I meant to include and did not was an
20 estimate of prevalence among patrons at gambling
21 facilities or outlets in each form of gambling should
22 also be included. It's fairly straightforward kind of

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1 language that states what was intended.

2 COMMISSIONER BIBLE: Whereabouts are you,
3 Leo?

4 COMMISSIONER LANNI: Say again.

5 COMMISSIONER McCARTHY: We're on 4.19.

6 COMMISSIONER BIBLE: Okay.

7 COMMISSIONER McCARTHY: Number one, end of
8 the paragraph.

9 COMMISSIONER BIBLE: Specific focus on
10 major subpopulations including youth, women, elderly
11 and minorities?

12 COMMISSIONER McCARTHY: The last sentence.

13 COMMISSIONER WILHELM: Are you looking at
14 today's version?

15 COMMISSIONER BIBLE: No.

16 COMMISSIONER WILHELM: There was one
17 passed out in this yellow packet today.

18 COMMISSIONER BIBLE: Okay.

19 COMMISSIONER McCARTHY: The sentence to be
20 added at the end of number one should read, "An
21 estimate of prevalence among patrons at gambling
22 facilities or outlets in each form of gambling should

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1 also be included."

2 COMMISSIONER LANNI: And that's the only
3 change?

4 COMMISSIONER MCCARTHY: That's the only
5 change.

6 CHAIR JAMES: Could you read it one more
7 time for the record?

8 COMMISSIONER MCCARTHY: "An estimate of
9 prevalence among patrons at gambling facilities or
10 outlets in each form of gambling should also be
11 included."

12 COMMISSIONER DOBSON: That is a motion,
13 right?

14 COMMISSIONER MCCARTHY: That is my motion.

15 COMMISSIONER DOBSON: And I second it.

16 CHAIR JAMES: It has been moved and
17 seconded. Is there any discussion?

18 Commissioner Wilhelm.

19 COMMISSIONER WILHELM: Not on that
20 particular point. I apologize to Leo and my fellow
21 commissioners. I overlooked a point yesterday which
22 I'd like to address, which is in subparagraph two.

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1 The middle sentence seems to me to be unduly limiting.

2 The middle sentence of two says, "The
3 purpose of such programs will be to intercept the
4 progression of many problem gamblers to pathological
5 states." I support that, but I think the sentence
6 should be stricken.

7 And the reason for that is it seems to me
8 that the purpose of programs that would be initiated
9 for public awareness education and prevention would be
10 -- would include, but not be limited to, the
11 progression of problem gamblers to pathological
12 states.

13 I assume it's also -- these programs are
14 also designed to prevent people from becoming problem
15 gamblers in the first place, for example?

16 COMMISSIONER McCARTHY: Yes.

17 COMMISSIONER WILHELM: So I would propose
18 that we strike that sentence and leave the rest of the
19 paragraph.

20 COMMISSIONER McCARTHY: How about one
21 purpose of such programs will be?

22 COMMISSIONER WILHELM: Well, what's -- it

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1 strikes me as not logical to single out that purpose.

2 Just as an example, if you just look at the numbers
3 of -- and I'm not suggesting we shouldn't try to
4 prevent problem gambling from becoming pathological.

5 But if you look at the number of people in
6 the country, it seems to me an equally and perhaps,
7 even arguably, more important goal --

8 COMMISSIONER MCCARTHY: I really have no
9 problem with what John is suggesting here. I thought
10 that was the most important reason why we should try
11 to have early intervention and some prevention effort.

12 Because if you can get them before they
13 self destruct, then it's a lot less costly to
14 everyone. But that's fine. I have no problem. That
15 will be understood to be implicit -- one of the
16 implicit purposes.

17 COMMISSIONER BIBLE: But I think that's an
18 important concept though is that you want to
19 intercept these individuals that may progress to an
20 area where they have more difficulty in dealing with
21 gambling responsibly.

22 I would tend to support your original

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1 language. And it may be -- one such purpose of the
2 program is to intercept the progression of those
3 problem gamblers that may progress to pathological
4 status.

5 COMMISSIONER McCARTHY: Well, if you want
6 to say one such purpose, I guess I don't have a big
7 problem with that. It just seems to me that it's
8 equally important to prevent people who don't have a
9 gambling problem from developing one, particularly as
10 gambling expands.

11 I suspect that there are more people --
12 it's probably an unfortunate phrase given the history
13 of it here. But there are probably more people at
14 risk of becoming problem gamblers numerically than
15 there are people who are at risk of going from problem
16 to pathological.

17 CHAIR JAMES: Well, do we have any issue
18 if we just put "one such?"

19 COMMISSIONER WILHELM: It's okay with me.

20 CHAIR JAMES: One such purpose.

21 COMMISSIONER McCARTHY: I have none, and I
22 would ask for an aye vote.

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1 COMMISSIONER WILHELM: Yeah, that's okay.

2 CHAIR JAMES: You ask for it?

3 COMMISSIONER MCCARTHY: A yes vote on the
4 whole thing.

5 CHAIR JAMES: All right.

6 COMMISSIONER WILHELM: He's moving the
7 question.

8 COMMISSIONER BIBLE: Second.

9 CHAIR JAMES: All in favor?

10 (Chorus of ayes.)

11 Any opposed? The motion carries.

12 Okay, we're not at 5.4.

13 I think that's yours, Bill.

14 COMMISSIONER BIBLE: Oh, I don't believe
15 so. I did not have that on my list from yesterday.

16 CHAIR JAMES: It said Bill will polish.

17 COMMISSIONER BIBLE: I will put that on my
18 list and I'll send it on to staff. Yeah, I disavowed
19 any knowledge of this one because this is the brain
20 wave recommendation.

21 COMMISSIONER WILHELM: He didn't brain
22 wave.

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1 CHAIR JAMES: We're not going to mention
2 that again today.

3 COMMISSIONER BIBLE: I'll take a look at
4 this one.

5 CHAIR JAMES: Thanks. And that brings us
6 to 6.20. I have that one. Let me read the language
7 as it exists right now. Why don't you go ahead and
8 pass that out? This is the language that was worked
9 on for that one.

10 COMMISSIONER WILHELM: Hey, don't you guys
11 have computers? You know, that's pretty --

12 CHAIR JAMES: "In light of the
13 unwillingness of the National Indian Gaming Commission
14 and certain individual tribes to supply tribal
15 gambling information considered proprietary, and the
16 detrimental effect this non-cooperation had upon our
17 ability to assess the impact of gambling on these
18 tribes, the Commission recommends to the Congress that
19 (1) all federal agencies responsible for collecting
20 and maintaining information on tribal gambling,
21 including the NIGC and the BIA, cooperate fully with
22 future federal research efforts;

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1 "And that (2), the creation of a federal
2 commission involving state and tribal representation
3 with full investigatory power, including subpoena
4 power, be considered to examine these impacts.

5 "Further, the Commission recommends to the
6 President and to the Congress that the U.S. Department
7 of Interior be directed to report annually on the
8 social and economic impacts of gambling on Native
9 American tribes, including an assessment of the impact
10 of these activities on federal assistance to the
11 tribes."

12 COMMISSIONER McCARTHY: Madame Chair,
13 after two there you've got federal twice. Creation of
14 a federal commission involving federal, state and
15 tribal representation. Can that be --

16 CHAIR JAMES: That should be a national
17 commission.

18 COMMISSIONER WILHELM: Madame Chair.

19 CHAIR JAMES: Commissioner Wilhelm.

20 COMMISSIONER WILHELM: I understand where
21 this is -- I just wanted to wait until Commissioner
22 Loescher -- I'll withdraw my point at the moment.

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1 CHAIR JAMES: Well, let's -- first of all,
2 I have offered it as a motion. Is there a second?

3 COMMISSIONER MOORE: Second.

4 CHAIR JAMES: There is a second. Then
5 we're ready for discussion.

6 COMMISSIONER WILHELM: Madame Chair, may I
7 resume?

8 CHAIR JAMES: Commissioner Wilhelm.

9 COMMISSIONER WILHELM: Thank you.

10 Reading this for the first time, I am
11 frankly undecided whether I could support it.

12 CHAIR JAMES: Can I make an amendment?
13 Let me do a couple of tweaking things here --

14 COMMISSIONER WILHELM: Yeah.

15 CHAIR JAMES: -- that may get us to a
16 point where -- I am, in my own, troubled by the word
17 unwillingness. And I realize that there are some
18 sovereignty issues here that may -- that, from their
19 perspective, make it impossible for them to provide
20 that information and it really is a legal question.

21 And so I am even struggling with how to
22 phrase that so that --

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1 COMMISSIONER WILHELM: I have a
2 suggestion.

3 CHAIR JAMES: Okay.

4 COMMISSIONER WILHELM: And I'd like to
5 preface my suggestion, if I may, because I know that
6 there's a certain amount of emotion within the
7 Commission on this. But I really hope that we can
8 deal with this appropriately, and I do agree that it
9 should be dealt with and divorce ourselves from some
10 of the more emotional exchanges that have taken place.

11 I feel qualified to urge my fellow
12 commissioners to do that because I'm the only one of
13 us -- as far as my memory serves, I'm the only one of
14 us whose removal was called for by the National Indian
15 Gaming Association from this Commission.

16 And I, of course, didn't take too kindly
17 to that. But that was something that was done by a
18 trade association. And trade associations, as this
19 Commission knows, say all sorts of things. More to
20 the point, the Native American community has been ably
21 represented on this Commission by Commissioner
22 Loescher.

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1 And I believe, and I think Dr. Moore would
2 join me in this sentiment, I believe that Commissioner
3 Loescher has done an extraordinary job in trying to
4 work through with a very diverse constituency all of
5 the issues that have come before the subcommittee and
6 the full Commission, and I think really has made an
7 extraordinary contribution in helping us to find
8 recommendations on this extraordinarily complex
9 subject that were supported yesterday by -- were
10 either unanimously supported or supported by the great
11 majority of the commissioners.

12 No small task. It would not have been
13 accomplished without the work of Commissioner Loescher
14 and many people in the tribal gaming community who
15 worked with him.

16 For that reason, I think we can accomplish
17 the goal here without this introductory verbiage, even
18 though I fully understand where the introductory
19 verbiage comes from. So I would like simply to
20 suggest that we delete the first one, two, three,
21 four, five, six lines of this and just simply start at
22 the end of the sixth line, "The Commission recommends

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1 to the Congress that," and then go through the
2 recommendations.

3 And the other suggestion that I would make
4 is that, at the end, where we say, "Further, the
5 Commission recommends to the President and the
6 Congress that the U.S. Department of Interior be
7 directed to report annually on the social and economic
8 impacts of Native American gambling," period.

9 And I make that suggestion for two
10 reasons. One, I believe that the impact of Native
11 American gambling is broader than the impact simply on
12 the tribes. And secondly, I think the reference to
13 federal assistance is inappropriate.

14 I don't think the issue is inappropriate
15 to be examined, but I think it's inappropriate in a
16 recommendation of this kind to single out one
17 particular issue for spotlighting.

18 CHAIR JAMES: Let me see how that reads at
19 this point. It would start, "The Commission
20 recommends to the Congress that all federal agencies
21 responsible for collecting and maintaining information
22 on tribal gambling, including the NIGC and the BIA,

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1 fully cooperate with future federal research efforts
2 and that the creation of a national commission
3 involving federal, state and tribal representation
4 with fully investigatory powers, including subpoena
5 power, be considered to examine these impacts.

6 "Further, the Commission recommends to the
7 President and the Congress that the U.S. Department of
8 Interior be directed to report annually on the social
9 and economic impacts of gambling on Native American"
10 -- we have gambling twice.

11 COMMISSIONER WILHELM: Well, my
12 suggestion, and I don't know if you're interested in
13 it, but my suggestion was to say to report annually on
14 the social and economic impacts of Native American
15 gambling, period.

16 CHAIR JAMES: Native American gambling,
17 period?

18 COMMISSIONER WILHELM: Well, that was my
19 suggestion.

20 CHAIR JAMES: Bob, do you have any edits
21 you'd like to make to that?

22 COMMISSIONER LOESCHER: I'd like to see

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1 you recede from this document totally.

2 Madame Chair, I have a hard time with all
3 of this given the history that we have. And you know,
4 if you want to go through it, I guess we can, if
5 that's what we're here for.

6 CHAIR JAMES: Well, let's not do that
7 because I think we're all familiar with that. Is
8 there anything in here that you could edit or change
9 or support? If not, we'll just call for the vote and
10 let it go up or down.

11 COMMISSIONER LOESCHER: Wait a minute,
12 wait a minute. We're going to have a long
13 conversation before you do that.

14 CHAIR JAMES: Okay.

15 COMMISSIONER LOESCHER: Madame Chair, you
16 know, the business of unwillingness, I agree that's
17 the wrong word.

18 CHAIR JAMES: That's gone.

19 COMMISSIONER LOESCHER: It's gone?

20 CHAIR JAMES: So we don't need to do that.

21 COMMISSIONER LOESCHER: Well, what's left?

22 CHAIR JAMES: We start with "the

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1 Commission recommends."

2 COMMISSIONER LOESCHER: Where?

3 CHAIR JAMES: The first six lines are
4 gone. It starts with "the Commission."

5 COMMISSIONER LOESCHER: Madame Chair, is
6 the language of federal commission involving federal,
7 state and tribal representation, is that still in
8 there?

9 CHAIR JAMES: It is. It creates a
10 national commission.

11 COMMISSIONER LOESCHER: Madame Chair, I
12 wouldn't wish that plague on anybody.

13 If we are going to have a national
14 commission for gambling, it should be for all gambling
15 in America, not just Native Americans. And if you
16 wish to expand the amount of commission oversight on
17 Native Americans, maybe we ought to consider it for
18 everybody.

19 But to single out Native Americans for
20 this plague is beyond me, and I really object that you
21 would encroach upon the sovereignty of tribes, tribal
22 governments, and their relationship with the U.S.

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1 Congress under the U.S. Constitution.

2 CHAIR JAMES: Bob, may I make a
3 suggestion?

4 COMMISSIONER LOESCHER: I find it
5 objectionable.

6 CHAIR JAMES: May I make a suggestion?

7 COMMISSIONER LOESCHER: Yes.

8 CHAIR JAMES: I think the intent here was
9 to somehow express in the document the concern, dismay
10 that the Commission had for their inability to receive
11 information. As a result of that, we were trying to
12 find some language that would express that. It does
13 not necessarily, if it's not the will of the
14 Commission, have to be a recommendation. It can be,
15 and should be I think, expressed in the body of the
16 document itself.

17 Bill?

18 COMMISSIONER BIBLE: Yeah. I was just
19 going to suggest that instead of making a
20 recommendation, because the recommendation at least
21 would appear to be -- to the casual reader to be
22 somewhat punitive in an area that is unsettled because

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1 we talked about this yesterday.

2 Their refusal to release the information
3 was predicated upon their understanding of the law,
4 and so it would have been a question of law that would
5 have been resolved through the court system.

6 That's --

7 CHAIR JAMES: That is --

8 COMMISSIONER BIBLE: Let me just finish.
9 Indicated that at least in his opinion we had the
10 right to assert our right to that information, would
11 have obtained it. They took the opposite position
12 that they were not going to provide it because they
13 had confidentiality statutes.

14 I would suggest you take this section and
15 make a finding, and essentially the finding would be
16 that our work was slowed down, wasn't as effective as
17 it could be, something of that nature, because we are
18 unable to obtain the information necessary to make a
19 thorough analysis of this area because the --
20 primarily the National Indian Gaming Commission has
21 asserted that their statutes would not allow them to
22 provide the information to us, or something of that

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1 nature. But I think it has to be a finding instead of
2 a recommendation because I think the procedure is
3 being punitive.

4 CHAIR JAMES: I would concur with that.
5 And as a result of that, their withdrawal with the
6 second of that particular motion, and would ask that
7 the subcommittee look at language that could be
8 included in that chapter that would capture the sense
9 of the Commission.

10 COMMISSIONER BIBLE: which subcommittee?

11 CHAIR JAMES: The Native American
12 Subcommittee.

13 (Laughter.)

14 COMMISSIONER LOESCHER: Madam Chair, that
15 is not fair.

16 (Laughter.)

17 CHAIR JAMES: You don't like it, you fix
18 it, Bob?

19 COMMISSIONER BIBLE: I thought we were
20 going to get done on June 18.

21 COMMISSIONER WILHELM: What do you mean
22 it's not fair? I just went to bat for you.

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1 (Laughter.)

2 COMMISSIONER LOESCHER: Okay. Well, we'll
3 do something.

4 CHAIR JAMES: And that you would work on
5 language that could be put in the --

6 COMMISSIONER LOESCHER: Yeah. And
7 somewhat in the tone of Commissioner Bible's?

8 CHAIR JAMES: Exactly.

9 COMMISSIONER LOESCHER: Okay.

10 COMMISSIONER McCARTHY: Or the chair could
11 give that task to Mr. Bible and Dr. Dobson, if you'd
12 prefer.

13 COMMISSIONER LOESCHER: No, no.

14 (Laughter.)

15 COMMISSIONER BIBLE: Why don't you give me
16 something and I'll work on it while --

17 (Laughter.)

18 COMMISSIONER LOESCHER: Okay.

19 CHAIR JAMES: And I apologize for seeming
20 to rush, but I know that we're going to begin to lose
21 Commissioners and I really do want to bring -- to make
22 sure that we have the opportunity to get through a

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1 variety of these. And I assure you, it's not the
2 issues, but just an ability to make sure that all of
3 the Commissioners get a chance to fully participate.

4 COMMISSIONER MOORE: Madam Chair?

5 CHAIR JAMES: Commissioner Moore?

6 COMMISSIONER MOORE: It would be difficult
7 right now for me to decide whether I'd vote for this
8 or not. But I am with --

9 CHAIR JAMES: It has been --

10 COMMISSIONER MOORE: I know. But I am
11 with the spirit of Commissioner James on this, as
12 being Chairman of the Indian Subcommittee. Even
13 though they were very cooperative with us and supplied
14 a lot of information that went in our subcommittee
15 report, I am one of those who believes sometimes that
16 you don't always hide behind the law.

17 You know, I believe that there's a moral
18 and a legal right, and I believe that they did hide
19 behind the law in certain places. But I'm very glad
20 that perhaps this motion -- this recommendation was
21 withdrawn, and I'll be happy to -- as the Chairman of
22 this Subcommittee -- to work with my brother, Mr.

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1 Loescher, and Mr. Wilhelm, to draw up -- my cousin,
2 Mr. Wilhelm.

3 (Laughter.)

4 COMMISSIONER BIBLE: A lot of related
5 parties in that transaction.

6 COMMISSIONER WILHELM: I'm not sure which
7 one of those each of us would prefer, Bob.

8 COMMISSIONER MOORE: To work on this. But
9 I would like to say that there were times that it was
10 very confusing.

11 CHAIR JAMES: Okay. 6.21 was a staff
12 signed one.

13 EXECUTIVE DIRECTOR KELLY: Madam Chair,
14 that was to determine whether they had previously
15 covered -- was this previously covered as 6.2, but I
16 don't think we covered it adequately, so I believe it
17 needs to be addressed.

18 COMMISSIONER BIBLE: 6.21?

19 EXECUTIVE DIRECTOR KELLY: 6.21. If you
20 look at the last --

21 COMMISSIONER WILHELM: Madam Chair, it
22 would be my view, with respect to 6.21, that the

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1 recommendations adopted yesterday, taken as a whole,
2 adequately cover this subject.

3 COMMISSIONER BIBLE: I don't think you can
4 do it.

5 COMMISSIONER WILHELM: I agree.

6 CHAIR JAMES: Okay. 7.7 and 7.8 were
7 tabled to the research discussion. That brings us to
8 7.9 that was handed out under the yellow sheets.

9 COMMISSIONER LANNI: So moved.

10 COMMISSIONER LOESCHER: Second.

11 COMMISSIONER BIBLE: Wait, wait, wait,
12 wait. I haven't seen the language.

13 COMMISSIONER WILHELM: It's okay, Bill.
14 You'll like it.

15 CHAIR JAMES: Because the easy
16 availability of ATMs and credit machines encourages
17 some gamblers to wager more than they intended, the
18 Commission recommends that states, tribal governments,
19 and pari-mutuel facilities ban cash dispensing and
20 other devices activated by debt or credit cards from
21 immediate access in areas where gambling takes place.

22 COMMISSIONER LANNI: Debit. You said

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1 debt.

2 CHAIR JAMES: Oh, debit. Sorry.

3 It has been moved. It has been seconded.

4 Discussion?

5 COMMISSIONER MCCARTHY: Who wrote this,
6 please?

7 EXECUTIVE DIRECTOR KELLY: Staff were
8 asked just to smooth out the language. None of the
9 content was changed, but we put a secondary phrase to
10 start the paragraph. It seemed to read better.

11 COMMISSIONER BIBLE: Why don't we call
12 these credit card cash advance machines? That's what
13 they are.

14 CHAIR JAMES: Credit card advance
15 machines.

16 COMMISSIONER BIBLE: Cash.

17 CHAIR JAMES: Cash. It has been moved.

18 Are we ready for the question?

19 COMMISSIONER LANNI: I'll call the
20 question.

21 CHAIR JAMES: All in favor?

22 (Ayes.)

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1 All opposed?

2 (No response.)

3 The motion carries.

4 Was there any other section? 7.22.

5 COMMISSIONER WILHELM: Madam Chair, I
6 believe this was tabled for the purpose of allowing us
7 to look at the materials which had been distributed
8 yesterday, which are referred to here.

9 And I certainly would support the thrust
10 of this, but it seems to me that if we're going to
11 make a recommendation, in order for the reader of the
12 report to understand it, that we should actually
13 include what it is these things say rather than
14 incorporating them by reference. But if we do that, I
15 would certainly support this.

16 COMMISSIONER BIBLE: So what you're
17 suggesting -- so your suggestion is we drop the
18 reference to AGA, plagiarize the material, and adopt
19 it.

20 COMMISSIONER WILHELM: I'm always willing
21 to give credit in footnotes.

22 COMMISSIONER BIBLE: I'm with you.

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1 CHAIR JAMES: And I'm not so sure that --
2 can we work with that one a little bit, because I
3 think what needs to happen is that we pull out some of
4 that, include it in the body. I'm not sure you want
5 all of that in the recommendation.

6 COMMISSIONER WILHELM: That's probably
7 right.

8 CHAIR JAMES: And look at --

9 COMMISSIONER WILHELM: As long as it's
10 here somewhere.

11 CHAIR JAMES: Yeah. And refer to it in a
12 footnote. With the permission of the Commission, I
13 will continue to work on that in the body of the
14 report.

15 COMMISSIONER BIBLE: Because I think it's
16 important that we make a statement in the area, and I
17 think we need to stick with our policy decision not to
18 mention specific groups.

19 CHAIR JAMES: That's right. All right.
20 Well, we'll continue to work on 7.22. Was that it on
21 the tables?

22 COMMISSIONER WILHELM: I didn't even ask

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1 for our particular union to be named.

2 (Laughter.)

3 COMMISSIONER LANNI: I have one question.

4 COMMISSIONER BIBLE: I noticed that.

5 CHAIR JAMES: Yes. Commissioner Lanni?

6 COMMISSIONER LANNI: I have one question.

7 I have the note that there was -- that 6.98 was held.

8 I have no idea what it was because it was never
9 included.

10 COMMISSIONER WILHELM: I thought we had
11 dealt with it.

12 COMMISSIONER LANNI: Did we?

13 CHAIR JAMES: We did.

14 COMMISSIONER LANNI: We did. Okay. I
15 missed it, then. That was one of Jim's?

16 COMMISSIONER DOBSON: It was mine, and it
17 passed.

18 COMMISSIONER LANNI: Okay.

19 CHAIR JAMES: With that, then, does that
20 take care of everything that was tabled from
21 yesterday, and the only remaining item is Future
22 Research? Then, what I'll do is call for a 10-minute

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1 break. We'll reconvene at 10:45.

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